

## Impartial Analysis of the City Attorney

The Hayward City Council has placed a measure on the November 8, 2016 ballot, asking voters to authorize the enactment of a general tax on the adult use of recreational cannabis, i.e. marijuana, and medical cannabis. If passed by a simple majority of the voters voting on the measure, the City would be authorized to enact an ordinance imposing a tax not exceeding fifteen percent (15%) of gross sales of adult use of recreational and medical cannabis. As stated in the ballot question, the tax, if enacted, would apply to the cultivation, distribution, manufacturing, business-to-business sales, as well as retail sales.

Generally, businesses engaged in supplying cannabis to other businesses or businesses engaged in the retail sale of adult use recreational or medical cannabis to customers would be required to collect the tax from other businesses or customers as part of their gross sales. Gross sales and taxes would be reported to the California State Board of Equalization, which in turn would remit the cannabis tax revenue to the City of Hayward.


The cannabis tax, if enacted, is intended to aid in the alleviation of the City of Hayward's ongoing general fund operating deficit, as set forth in the resolution adopting the ballot question. The resolution further contains findings of a fiscal emergency, as required for a general tax to be submitted to the electorate at a special municipal election. Revenue from the tax would be deposited in the City's general fund and could be used for any valid municipal purpose, including police and fire services, paramedic services, youth and anti-gang programs, disaster preparedness, economic development, street repairs and maintenance, graffiti removal, and code enforcement.

The Hayward tax ordinance could be enacted only if adult use of recreational cannabis is legalized in the State of California. For example, Proposition 64 on the November 8, 2016 statewide general election ballot presents the question of whether adult use of recreational cannabis should be permitted in the State. If Proposition 64 passes and if this Hayward City Council-sponsored measure also passes, the Hayward City Council would be authorized to enact a comprehensive ordinance that imposes the cannabis tax. This measure, if adopted, does not mean the City Council is required to enact such ordinance -- it simply means the City Council would retain local control in deciding whether to enact a tax ordinance after considering the positive and negative factors of allowing adult recreational cannabis businesses and medical cannabis vendors in the City of Hayward.

The fifteen percent (15%) tax is the maximum tax that could be imposed on cannabis businesses. The City Council could impose a lower tax. However, the cannabis tax would be in addition to any other sales or transactions tax imposed by the City of Hayward, the State of California or any other taxing agency.

A 'yes' vote on the measure means the voter is in favor of authorizing the City to enact a cannabis tax ordinance. A 'no' vote means the voter is not in favor of authorizing the City to enact a cannabis tax ordinance.

The above statement is an impartial analysis of the measure.

By:   
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City of Hayward

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